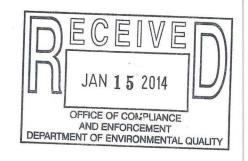


## DEPARTMENT OF THE ARMY CORPS OF ENGINEERS, PORTLAND DISTRICT PO BOX 2946 PORTLAND OR 97208-2946



**CENWP-OC** 

January 14, 2014

Leah K. Feldon
Department of Environmental Quality
811 SW Sixth Avenue
Portland, Oregon 97204-1390

Re:

Notice of Civil Penalty Assessment and Order

Case No. WQ/SW-NWR-13-134

Dear Ms. Feldon:

This letter acknowledges receipt of the subject December 30, 2013 Notice of Civil Penalty Assessment and Order. The U.S. Moorings received the notice on December 31, 2013.

The Corps of Engineers takes compliance with the Clean Water Act and the National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit 1200-Z issued by DEQ very seriously. We have taken, and will continue to take corrective action to ensure valid visual observations are taken in both dry and rainy conditions. We will continue to sample our permitted discharge points in compliance with the requirements of our permit while increasing onsite sampling at various points to better manage our treatment system.

With respect to the penalty assessed, 33 U.S.C. § 1323 (federal facilities section of the Clean Water Act) does not authorize the payment of fines and penalties. See *United States Dep't of Energy v. Ohio*, 503 U.S. 607 (1992). We are therefore prohibited by 31 U.S.C. § 1301(a) (the Purpose Statute) from paying such fines and penalties.

If you have questions regarding any of the corrective actions taken, please contact Art Leskowich, Environmental Compliance Coordinator, at (504) 808-5407 or <a href="mailto:arthur.f.leskowich@usace.army.mil">arthur.f.leskowich@usace.army.mil</a>. If you have any question regarding this letter, please contact me at (503) 808-4525 or <a href="mailto:leskowich@usace.army.mil">leskowich@usace.army.mil</a>.

Sincerely,

Leanne V. Holm

Assistant District Counsel

Copy Furnished:

Chris Harper, CENWP-OD-NP Arthur Leskowich, CENWP-OD-NP Ken Duncan, CEN-OD-SR

